

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF SOUTH CAROLINA FLORENCE DIVISION

LA'QUAN RAMELL HYMAN,	§
Plaintiff,	§
	§
vs.	§ CIVIL ACTION NO. 4:13-3523-MGL-TER
	§
SOUTH CAROLINA DEPARTMENT OF	§
CORRECTIONS, LEE CORRECTIONS	§
INSTITUTIONAL MEDICAL HEALTH	§
CARE PROVIDER, RN JUDY RABON,	§
and RN MS. MCDONALD	§
Defendants.	§

ORDER ADOPTING THE REPORT AND RECOMMENDATION AND DENYING DEFENDANTS' MOTION TO DISMISS

This case was filed as a 42 U.S.C. § 1983 action. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that Defendants' motion to dismiss under Fed.R.Civ.P. 41(b) be denied. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

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The Magistrate Judge filed the Report on January 9, 2015, but neither party filed any

objections. "[I]n the absence of a timely filed objection, a district court need not conduct a de novo

review, but instead must 'only satisfy itself that there is no clear error on the face of the record in

order to accept the recommendation." Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315

(4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Moreover, a failure to

object waives appellate review. Wright v. Collins, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set

forth above, the Court adopts the Report and incorporates it herein. Therefore, it is the judgment

of this Court that Defendants' motion to dismiss under Fed.R.Civ.P. 41(b) is **DENIED**.

IT IS SO ORDERED.

Signed this 3rd day of February, 2015, in Columbia, South Carolina.

s/ Mary G. Lewis

MARY G. LEWIS

UNITED STATES DISTRICT JUDGE

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